

**TOQUERVILLE CITY  
PLANNING COMMISSION MEETING MINUTES**

August 17, 2016

**Work Meeting 6:30 p.m. - Regular Meeting 7:00 p.m.  
Held at 212 N. Toquerville Blvd, Toquerville Utah**



Present: Chairman Mike Ruesch; Commissioners-Jake Peart, Jerome Gourley, David Hawkins, and Alex Chamberlain; Staff: Mike Vercimak – Zoning Administrator, Dana McKim – Recorder, Karl Rasmussen – City Engineer; Public: Lynn Olds, Ty Bringham, Joe Eves, Paul Heideman, Daren Cottam, Mark Fahrenkamp, Danny Catlin, Estella Rae Catlin, Keen Ellsworth, Darrin LeFevre, Mark Shelton, Newell and Leah Matheson, John Kinsey, Manning Butterworth, Douglas Wilson, Roger Watters, Lapeta Watters, Haylee Ream, Jackson Ream

**6:30 PM WORK MEETING:**

Chairman Ruesch calls meeting to order at 6:29.

**1. Discussion of Non-Conforming Use Proposal**

Ruesch inquired city council member Ellsworth about proposed changes to the non-conforming city code 10-28-1. Ellsworth explained that this has been an ongoing issue. There are residences in Toquerville that now have two or three living quarters on a single residential lot. City code needs updated to address these instances. This issue affects impact fees and utility charges to the City. All the changes are subject to revision, but Ellsworth is requesting a decision made on a time frame when owners can apply for a non-conforming use permit to clear up these locations resulting in compliance.

6:31 Chairman Alex Chamberlain enters meeting

Chairman Peart asked how long the non-conforming code has been in effect. Darrin LeFevre stated this has been in effect ever since zoning was placed in the City of Toquerville. Peart asked why any exceptions should be made if it deemed to be illegal. Ellsworth replied to Peart saying in passing this non-conforming use permit, it will clear up issues and create balance and clarity of this ongoing problem. LeFevre had concerns that the city may not have the budget to take every one of these non-conforming properties to court, or it would create hardships on the citizens of Toquerville.

6:37 David Hawkins enters meeting

Ellsworth proposed two options. The council can either work with the residents or force strict compliance of zoning regulations. The current code is not clear enough to pursue enforcement of non-conforming property owners. Chamberlain didn't think the current code is clear enough to enforce as well. Peart believes that these properties should be phased out. Ellsworth stated that all the dates are flexible in the agreement from the time of application, to the time of compliance. Lynn Olds voiced that the residences that were allowed to be non-conforming should be granted a grandfather clause, whereas new buildings should be held at the new standard. He believes the new restrictions would be a hardship on the residents that have already spent the time and money to add these structures to their property. Chamberlain explained that this agreement would clarify utility fees and impact fees to the multiple service locations. Daren Cottam requested the council should look at the neighborhood and ask how the neighbors feel about this issue before applying any new regulation.

**2. Discussion on Flag Lots**

Ellsworth wanted to make a clear point that the discussion of changing the flag lot ordinance has nothing to do with the Cottam proposal, but due to the fact the city code had some discrepancies. The word "significant natural features" was subject to interpretation. Other cities have defined



what this definition is by calling it a “natural geographical feature” and to list it in the definitions. Adding “prior or current” owner could also be added to the flag lot definition for further clarification. Confusion to paragraph one in City Code has the word “or” which is causing conflicting interpretations with the review process. Some people think the word should be changed to “and”. There was confusion on the definition of a flag lot because there are conflicting measurements in the definition and in flag lot allowances. Specific lengths and widths need to be specified while conforming to fire code need to be addressed. The creation of flag lots have changed in the area because half acre lots are more manageable. One acre lots were created because people needed the acreage for livestock. Cottam wanted clarification of what property can be considered for flag lot creations. The council will look and possibly revise flag lots at the next council meeting.

### **7:00 PM REGULAR MEETING:**

1. Call to order by Mike Ruesch, PC Chair at 7:01 pm. Pledge of Allegiance led by Jerome Gourley.
2. Disclosures and Declaration of Conflicts from Commission members (if any).  
None

#### **A. REVIEW OF MINUTES:**

1. Review and Possible Approval of Planning Commission Meeting Minutes from July 27, 2016.

Chairman Gourley would like to modify the minutes from July 27, 2016 in regards to the Campbell's Bed and Breakfast Conditional Use Permit. In his motion he did not want to include the Campbell's conditions to seek “compliance” with Ashcreek Point Subdivision but to seek “consideration of” Ashcreek Point Subdivision. Gourley would like to change his motion.

**Commission Alex Chamberlain changes his motion from July 27, 2016 for the Conditional Use Permit to be granted for the applicants Kalleen and Roger Campbell with an additional request they seek consideration of the Ashcreek Point Subdivision, second by Commissioner Peart. Motion is unanimous.**

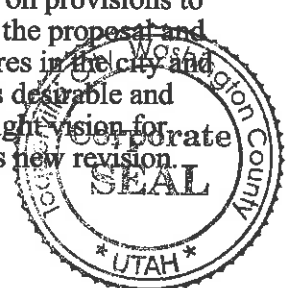
#### **B. PRESENTATIONS:**

#### **C. PUBLIC FORUM:**

1. Comments from public and public requests for future agenda items  
*\* Limit three (3) minutes per person. Please address the microphone and state full name and address.*

Daren Cottam spoke about the flag lot issue. He would like to have some revisions on the flag lot ordinance done before the next planning commission meeting so a decision can be acted upon at the next City Council Meeting. Cottam has done some research on flag lots and is willing to be a part of that change. Chairman Ruesch will schedule a special meeting in the near future in regards to this issue.

Manning Butterworth spoke about the exterior lighting item, with specific questions on provisions to the color temperature. Commissioner Chamberlain did say there were provisions in the proposal and does specify a 2700K restriction. Butterworth commented on the new lighting fixtures in the city and believes they conform with the exterior lighting ordinance. The color temperature is desirable and appropriate for the lighting level and color. He believes this is helpful to preserve night vision for drivers and pedestrians and less harmful to the environment. He is supportive of this new revision.



#### **D. PUBLIC HEARING:**

1. Public input is sought on a Preliminary Plat Application submitted by Nicole Ream, Sanpete Investors LLC. for development of Phase II in Trail Ridge Estates Toquerville, UT 84774. Tax ID #s T-107-B-1; T-3-1-12-33001; T-3-1-13-40001. Requested zoning is Single Family Residential.

Karl Rasmussen with Pro Value Engineering explained this plan. There are 39 plats in this phase. This plan follows the amended master plan. Chairman Ruesch asked the applicant if they are following the recommendations placed by staff. Jackson Ream advised they are. Commissioner Gourley had concerns of the surface drainage in this area and noticed there appears to be a lot of water run off when a rainstorm occurs. Rasmussen has plans to install pavement and storm drain collection systems that will assist with sediment issues. These drainage systems will be tied into the storm drain system. Commissioner Hawkins questioned if this phase will impact the ridgeline trail. Rasmussen stated this trail is not a road based trail and will not be paved or improved upon. Gubler requested that the water line be looped in this phase rather than have a dead end in water services.

2. Public input is sought on proposed changes to City Code Title 10, Chapter 24 - Exterior Lighting.

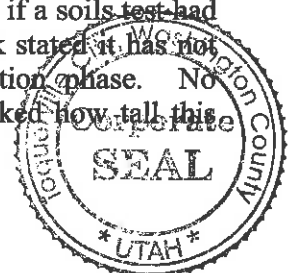
Mark Shelton moved to Toquerville two years ago because of the lighting. He is in favor of preserving the night sky and agreed with the ordinance provisions. He was pleased in the direction the town has taken to preserve the night sky.

3. Public input is sought on a Conditional Use Permit Application submitted by Brent Gardner from Alpha Engineering for an Extraction Permit in the area of Anderson Junction, near Interstate 15. Tax ID #T-3-0-27-132. Zoning is MU-20.

Doug Wilson from the Washington County Water Conservancy District was present. The extraction permit is for use of the lava rock for the upcoming 155 acre reservoir in the area. Discussions with adjacent landowners have been done with agreements obtained for access to the ridge area. The reservoir project was started four to five years ago, several studies required are now completed. They are currently working with the army corps of engineering to complete their requirements. The Conservancy district will restore this area after this permit is complete, to include the possibility of a residential subdivision creation to try and increase the value of the property. It is not their intent to hold this property long term but to sell it to a property development company.

4. Public input is sought on a Conditional Use Permit Application submitted by Jerry Eves for an Electrical Natural Gas Combined Cycle Generator work site located in the area of the Browse Exit, on the West side of I-15, (Sectional Lot 10, a portion of Sectional Lots 11 and 14, Section 11, Township 40 South, and Range 13 West). Property is zoned BMP.

Jerome Gourley requested to speak with Joe Eves, the representative on this project. Gourley inquired if the photo provided is as close to the replica of what will be built. Eves indicated yes. Peart requested exactly where this was located. Chairman Ruesch asked if a soils test had been completed. Eves indicated that it had been submitted. Mike Vercimak stated it has not been submitted and that type of testing will occur during the construction phase. No environmental testing has been seen thus far. Commission Chamberlain asked how tall this



plant will be. Joe Eves was unaware of how tall the plans are. Gourley stated they cannot be higher than 100 feet tall.

Public Hearing closed by Chairman Ruesch.

**E. BUSINESS/ACTION ITEM(S)**

1. Discussion and Possible Approval on a Preliminary Plat Application submitted by Nicole Ream, Sanpete Investors LLC. for development of Phase II in Trail Ridge Estates Toquerville, UT 84774. Tax ID #s T-107-B-1; T-3-1-12-33001; T-3-1-13-40001. Requested zoning is Single Family Residential.

Mike Vercimak pointed out to the Commission specifically recommendation number three to require construction drawings for all park amenities to be submitted to staff per the developmental agreement.

**Motion made by Commissioner Chamberlain to recommend approval to City Council contingent upon the conditions developmental staff has placed, second by Jerome Gourley. Motion is unanimous.**

2. Discussion and Possible Approval on a Conditional Use Permit Application submitted by Brent Gardner from Alpha Engineering for an Extraction Permit in the area of Anderson Junction, near Interstate 15. Tax ID #T-3-0-27-132. Zoning is MU-20.

Commissioner Hawkins inquired if any action can be taken on this item since some of the conditions required are not completed. Ruesch stated that the items are listed in the staff report as conditions and the permit may be approved at this time. Roger Waters, an adjoining property owner to this proposed permit stated he has an agreement with the water conservancy district and is in support of this project. Chamberlain inquired if there are any specific restoration requirements, and had concerns since that evaluation may be subjective. Mike Vercimak stated the restoration plan and mitigation plan is complete.

**Motion made by Commissioner Gourley to approve this application, subject to the findings and recommendation of staff, as well as the access agreement with the land owner and the Water Conservancy District, second by Commissioner Peart. Motion is unanimous.**

3. Discussion and Possible Approval on a Conditional Use Permit Application submitted by Jerry Eves for an Electrical Natural Gas Combined Cycle Generator work site located in the area of the Browse Exit, on the West side of I-15, (Sectional Lot 10, a portion of Sectional Lots 11 and 14, Section 11, Township 40 South, and Range 13 West). Property is zoned BMP.

Commission Peart questioned the location of this project as well as the integration of Mr. Eve's other projects. Eves does not have a master plan at this time. This conditional permit is needed for further planning and construction to proceed. The application submitted is only for the use of the property, not the specific design of the project. Commissioner Chamberlain had concerns with the lighting of this site and how it would need to comply with the proposed lighting ordinance.

**Motion made by Commissioner Hawkins to approve this permit with the conditions placed by the developmental staff, second by Commissioner Chamberlain. Motion is unanimous.**



4. Discussion and Possible Approval on a Subdivision Lot Line Adjustment Application submitted by Danny and Estella Rae Catlin located at 821 & 825 Peachtree Drive. Tax ID # T-AHP-A-23 & T-AHP-A-24. Property is zoned R-1-12.

Mike Vercimak researched this application and found one of the lots to be a non-conforming parcel. It is on the edge of Ash Creek, and the majority of the lot is not usable. Instead of creating a non-conforming lot, Vercimak requested that the lot be modified for the two lots to be combined into one lot if that is agreeable to the property owner. Dan Catlin is agreeable to this modification and would like to start construction on this lot sooner than later.

**Motion made by Commissioner Chamberlain to approve this application with the conditions set by staff, with the proposed property to be one large lot as the ending result. Second by Jake Peart. Motion is unanimous.**

5. Discussion and Possible Approval on proposed changes to City Code Title 10, Chapter 24 - Exterior Lighting.

Chamberlain would like the specific foot candles to be outlined in the lighting ordinance. Ruesch suggested the terminology "foot candles" could be taken out of the draft and noted this agreement is subject to a lighting evaluation. Chamberlain was comfortable with that change. Hawkins questioned about the enforcement of this title. Ruesch cited in the changes it recommends a lighting audit to be performed by the City. Hawkins believes the city council should have some lead way in the color temperature requirements. Chamberlain disagrees. Ruesch would like the lighting analysis performed to allow the city to be eligible to receive funding from UDOT on various projects. Ruesch recommends the city pursue new fixtures rather than retrofit the existing fixtures.

**Motion made from Commissioner Gourley to approve the proposed changes to City Code Title 10, Chapter 24 with consideration of a lighting analysis to be performed to qualify for available funds from UDOT for projects to be performed on Main Street. To replace rather than retrofit lighting fixtures, and to replace the wording "foot candles" to "as recommended by the lighting analysis". Second by Alex Chamberlain. Motion carries. (4-1) Hawkins-nay.**

6. Discussion and Possible Approval on a Non-Conforming Use Proposal ~ Keen Ellsworth  
Mike Vercimak recommended the Planning Commission take time to review this proposal and the changes to be made. Jerome Gourley is favorable to the idea of identifying non-conforming structures, encouraging owners to meet a standard set forth by the City, while at the same time reaching back and grandfathering property owners whom have been non-compliant for years. To identify these instances, a standard will need to be set. Gourley is willing to take time to research this issue, table this issue and come up with suggestions. Peart would like the commission to be a part of these discussions. Vercimak encouraged the commission to hold a work meeting. Chamberlain would like the public to weigh in on these issues for input.

**Motion to table this item for a month, giving time for commissioners to research and hold a meeting for further discussion made by Commissioner Gourley. Second by Commissioner Chamberlain. Motion is unanimous.**

#### **F. HO/CUP REVIEW:**

1. Discussion and Possible Approval of a Conditional Use Permit Renewal for Gary and Karlene Young, on a Bed and Breakfast in the name of "The Young Home Bed and Breakfast" located at 460 N Toquerville Blvd.

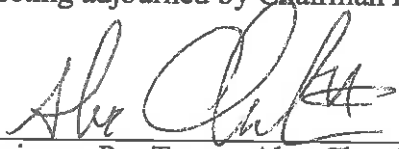


2. Discussion and Possible Approval of a Conditional Use / Livestock Permit Renewal for Stephen and Becky Doughty, for the "Keeping of Two Horses" located at 1500 Cholla.
3. Discussion and Possible Approval of a Conditional Use Permit Renewal for a Home Occupation Permit for Kate Kirkham ~My Nephew's Photos located at 1661 S Chaparell Drive.
4. Discussion and Possible Approval of a Conditional Use Permit Renewal for a Home Occupation Permit for Naomi Wright ~ Naomi Fern Wright Certified Rolfer, LMT located at 959 S Peachtree Drive.

All business licenses listed for review are valid and no complaints have been filed.

**Motion to approve all HOCUP reviews on listed on agenda made by Commissioner Chamberlain, second by Commissioner Hawkins. Motion is unanimous.**

Meeting adjourned by Chairman Ruesch at 8:02 pm

  
Chairman Pro Temp: Alex Chamberlain

  
Attest: Dana M. McKim, Toquerville City Recorder

